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The Commonwealth of Massachusetts
State Ethics Commission

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COMMISSION FACT SHEET

MUNICIPAL OFFICIALS: DON'T VOTE ON MATTERS AFFECTING AN ABUTTING PROPERTY

The conflict of interest law states that a municipal official may not participate (by voting, discussing or otherwise acting) in any matter that affects his or her own financial interest. The Ethics Commission has ruled that it will presume municipal officials have a financial interest in matters affecting property which directly abuts their own. Accordingly, municipal officials may not take action in their official capacity on matters affecting property that abuts their own unless they can clearly demonstrate that they do not have a financial interest in the matter.

This provision of the law is intended to ensure that public officials are acting in the best interest of their city or town and are not pursuing their own self interest.

A recent case which illustrates this aspect of the law concerns a planning board member who admitted she violated the conflict law when she voted on a zoning matter affecting her neighbor's property. The planning board member voted to recommend that the zoning board deny a variance to her neighbors, who wished to convert their barn into an apartment. The planning board in this particular town occasionally sends advisory recommendations on petitions to the zoning board.

In another recent case, the Commission issued a public letter critical of a selectman who participated in negotiations for the town's purchase of a private landfill site located directly across the street from his home. Even though the selectman appeared to have placed the town's interest before his own by supporting the continued operation of the landfill by the town rather than having it closed and restored by a private company, the Commission warned the selectman to exercise caution whenever a town matter dealt with property abutting his own, no matter how small or speculative his financial interest in the matter may be.

The Public Enforcement Letter issued to the selectman states, "Without exception, abutting property owners are presumed to have a financial interest in matters affecting the value of the abutting property....It is irrelevant whether the matter beneficially or adversely affects your financial interest. As long as there is some effect, Section 19 prohibits your participation."

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Commission Fact Sheets are prepared and issued by the Public Education Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law.

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